

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOEL PENA, an individual,
p/k/a JOEL HUMAN®

Plaintiff,

v.

ROC NATION LLC,
S. CARTER ENTERPRISES LLC, and
DANIEL DAY p/k/a Dapper Dan

Defendants.

23 CV 07009

Civil Action No.

JURY TRIAL DEMANDED

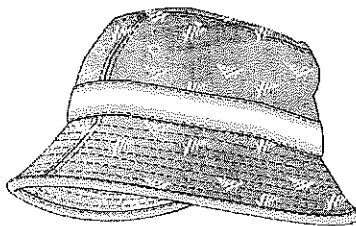
COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, Joel Pena, alleges his complaint against Defendants, ROC Nation LLC, S. Carter Enterprises LLC (“SCE”), and Daniel Day p/k/a Dapper Dan, as follows:

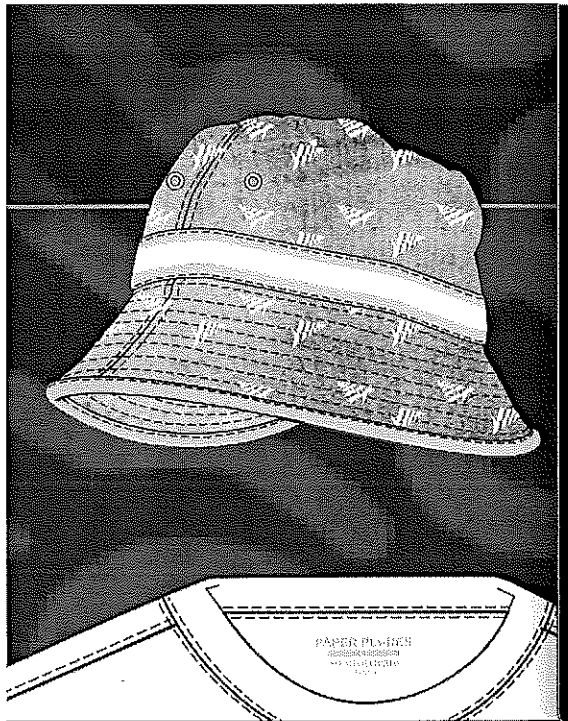
NATURE OF THE ACTION

1. This action arises from the above-named Defendants infringement of Plaintiff’s “ownership” and exclusive “use” rights in his copyright design titled “**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**” depicted in the image below:

PAPER PLANES
DESIGNED BY JOEL PENA



2. Despite Plaintiff being the copyright owner of the “**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**” under such design and image, Defendants Roc Nation, SCE and Dapper Dan have infringed Plaintiff’s rights in the aforementioned intellectual property by copying, reproducing, exploiting, manufacturing, selling, offering for sale and advertising a bucket hat under Plaintiff’s copyrighted design. Defendants Roc Nation, SCE and Dapper Dan have infringed Plaintiff’s rights by exploiting and publishing images that violate Plaintiff’s copyright and such acts were done without the authorization or consent from Plaintiff. A comparison of Plaintiff’s copyrighted bucket hat design and Defendants promotion of an individual wearing an almost identical bucket hat design is shown below:



3. The ROC Nation, SCE and Dapper Dan Defendants use and sale of one of its bucket hat designs bearing Plaintiff’s (**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**) design where done willfully and intentionally as the aforementioned Defendants were aware of Plaintiff’s bucket hat design as Plaintiff presented a tech pack design layout of various clothing and bucket hat designs to the ROC Nation, SCE and Dapper Dan Defendants representatives.

4. The ROC Nation, SCE and Dapper Dan Defendants collectively copied and reproduced Plaintiff's copyrighted design on a similar clothing item and have promoted the same in public and have given credit for the creation of the design to Defendant Dapper Dan.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 17 U.S.C. §101, et. seq., 17 U.S.C. §501-509; and 28 U.S.C. §1367,

6. This Court has personal jurisdiction over the Defendants because Defendants are engaged in business activities in, and directed to the State of New York within this judicial district, and because Defendants' have committed tortuous acts aimed at and causing harm within the State of New York and this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) because it is where Plaintiff maintains a residence and the Defendants transacts business in this district, and because a substantial portion of the events giving rise to the asserted claims have occurred, and continue to occur, within this district. Furthermore, the damage to Plaintiff and its intellectual property described herein continues to occur in this judicial district.

THE PARTIES

8. Plaintiff, Joel Pena is an individual with an address at 40 Clinton Street – South Store, New York, NY 10002.

9. Upon information and belief, Defendant, ROC Nation LLC is a Delaware Limited Liability Company with a business address at 540 W 26th Street, New York, NY 10001.

10. Upon information and belief, Defendant S. Carter Enterprises is a Delaware corporation with a business address at 540 W 26th Street, New York, NY 10001.

11. Upon information and belief, Defendant Daniel Day p/k/a Dapper Dan is an individual with an address at 241 Lenox Ave., New York, NY 10027.

FACTS

12. Plaintiff Joel Pena p/k/a **JOEL HUMAN®** has been a clothing designer for nearly two and half decades and has designed clothing for companies and brands including but not limited to **FUBU®, G-UNIT CLOTHING®, REMYBOYZ™, HUDSON OUTERWEAR™, EPIDEMIC MUSIC™, ISLAND/DEF JAM RECORDS®** just to name a few.

13. In or about March of 2023, Plaintiff provided a tech pack of designs bearing Plaintiff's copyrighted work to Liang Huang, owner of the New York City clothing store 4UCaps. Mr. Huang has a long-standing and existing business relationship with Defendants Roc Nation, SCE and Dapper Dan as Mr. Huang sells and offers for sale merchandise produced and sold by Defendants ROC Nation, SCE and Dapper Dan under the Paper Planes brand.

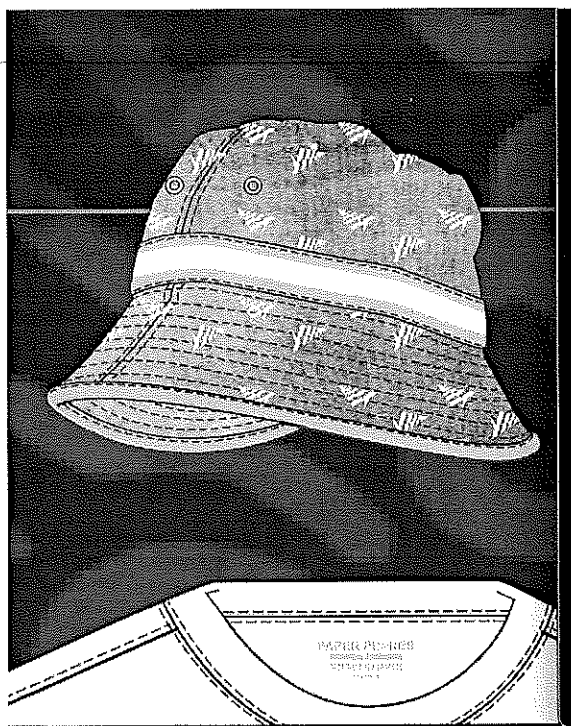
14. Mr. Huang presented my tech pack of designs to the Defendants to determine if Defendants would be interested in bringing in Plaintiff as an in-house clothing designer for the Defendants and instead of the Defendants hiring Plaintiff as its in-house clothing designer, Defendants copied Plaintiffs design work and promoted the same as a design of Defendant Dapper Dan.

15. Plaintiff is the owner of United States Copyright Case No. 1-12853842671 for the work titled "Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®).

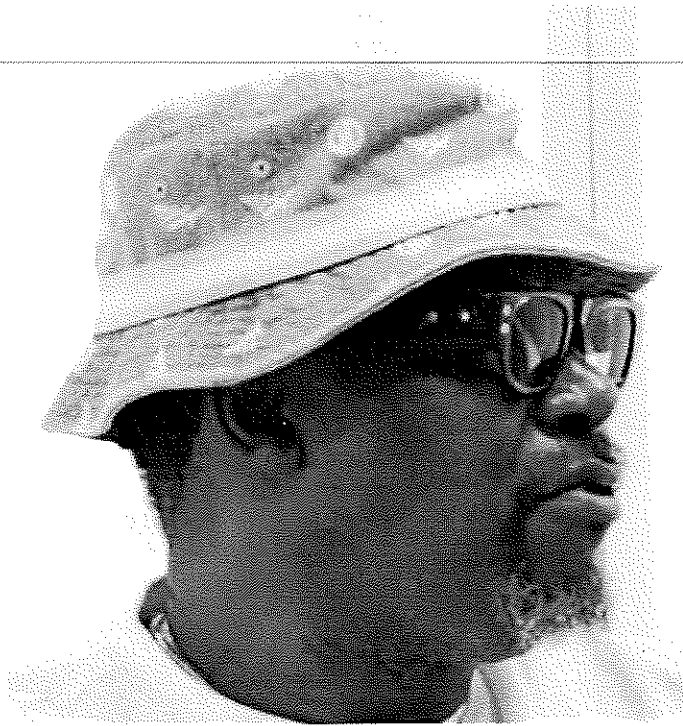
16. Defendants ROC Nation, SCE and Dapper Dan run an operate multiple businesses that manufacture, distribute, sell and offer for sale headwear and other.

17. Plaintiff is informed and believes and thereon alleges that the aforementioned Defendants have introduced and began marketing, selling, offering for sale headwear under Plaintiff's (**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**) design.

18. The designs offered for sale on headwear by Defendants ROC Nation, SCE and Dapper Dan is a substantial identical replication and copy of Plaintiff's (**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**) and copies constituent elements of Plaintiff's copyright.



Plaintiff's Bucket Hat Design.



Defendants ROC Nation, SCE and Dapper Dan's copy of Plaintiff Hat Design.

19. Defendants use of Plaintiff's copyrighted work and design was done without consent or permission by Plaintiff.

**FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT**

20. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 19 of this Complaint.

21. Plaintiff is the creator, author, and owner of all rights of copyright in and to the Bucket Hat design shown above.

22. Plaintiff acquired its rights to the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))** in 2023.

23. Defendants, without authorization of Plaintiff as the owner of all rights of copyright in the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))**, and in violation of 17 U.S.C. §§101 et seq., has intentionally and willfully copied, distributed, and publicly displayed and sold and/or offered for sale, a bucket hat design that is identical or in the least, substantially similar to the Plaintiff's copyrighted **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))**.

24. Defendants ROC Nation, SCE, and Dapper Dan's actions constitute copyright infringement and have caused and will continue to cause Plaintiff irreparable harm and injury unless enjoined by this Court.

25. By reason of Defendant's infringement of Plaintiff's copyright in his **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))** Design in connection with headwear, Defendants have derived revenues and profits attributable to said infringement, the amount of which has yet to be ascertained.

26. Defendant's infringement of Plaintiff's copyright in the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))** was committed "willfully" as that term is used in 17 U.S.C. §504(c)(2). At all times mentioned herein, and upon information and belief, Defendants

were aware of, and had reason to believe, that its acts constituted infringement of Plaintiff's copyright in the Bucket Hat design.

SECOND CAUSE OF ACTION UNJUST ENRICHMENT

27. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 26 of this Complaint.

28. Defendants ROC Nation, SCE and Dapper Dan have unjustly retained profits from the sale of headwear products bearing Plaintiff's (**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**).

29. Defendant's actions constitute unjust enrichment.

THIRD CAUSE OF ACTION CONVERSION

30. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 29 of this Complaint.

31. Defendants have continued and is presently using Plaintiff's (**Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®)**).

32. Defendants have continuously introduced, sold and/or offered for sale products bearing Plaintiff's copyright and are continuing to profit off of Plaintiffs' intellectual property.

33. Defendant is therefore liable for conversion and liable for punitive damages for converting Plaintiff's copyright.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief as follows:

1. Entry of an order and judgment requiring that Defendants ROC Nation, SCE, Dapper Dan, its subsidiaries, officers, agents, servants, employees, owners, and representatives, and all other persons or entities in active concert or participation with them, be preliminarily and, thereafter, permanently enjoined and restrained from (a) using in any manner the trade name, trademark, domain name or other indicia or origin, including in whole or part the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))** design, or any colorable imitation thereof; (b) advertising, selling, offering for sale any headwear goods using in whole or part the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))** design, or any colorable imitation thereof; (c) otherwise engaging in any acts of unfair competition and copyright infringement which tend to injure Plaintiff's rights in the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))**.

2. That Defendants be required to account to Plaintiff for any and all profits derived by it, and to compensate Plaintiff for all the damages sustained by reason of the acts complained of herein, and that the damages herein be trebled pursuant to the copyright act.

3. That Defendants ROC Nation, SCE and Dapper Dan be ordered to deliver up for destruction any and all infringing materials bearing the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))**, and any colorable imitation thereof, in whole or part.

4. That Plaintiff be awarded punitive and statutory damages in the amount of \$5,000,000.00.

5. That Defendants ROC Nation, SCE and Dapper Dan be required to place advertisements or send notifications to past and present customers that it improperly has been using the **(Paper Planes Bucket Hat Designed By Joel Pena (Joel Human®))**.

6. That Plaintiff be awarded the cost and disbursements of this action.

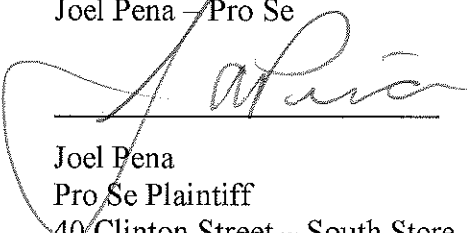
7. That Plaintiff have such other and further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all issues.

Dated: August 9, 2023
New York, NY

Respectfully submitted,
Joel Pena – Pro Se



Joel Pena
Pro Se Plaintiff
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New York, New York 10002
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